



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

2

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/243,568 02/03/99 SCHONROCK

U BEIERSDORF-5

HM12/0925

KURT G. BRISCOE
NORRIS, MCLAUGHLIN & MARCUS, P.A.
220 EAST 42ND STREET 30TH FLR.
NEW YORK NY 10017

EXAMINER

MURRAY, T

ART UNIT

PAPER NUMBER

1626

DATE MAILED:

09/25/01

24

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/243,568

Applicant(s)
Schonrock et al

Examiner
Joseph Murray

Art Unit
1626



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-33 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

Art Unit: 1626

Claims 22-33 are pending in the instant application, which is a CPA.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue et al, JP 04099730, Inoue et al, JP 04099771, and Shtikhande, et al, J. Of Food Sci.

The instant application claims a method of preventing the oxidation of cosmetic or dermatologic compositions comprising using an active ingredient consisting of ascorbic acid and an ascorbyl compound, in specified amounts, and an active ingredient selected from the group consisting of flavones, flavanones, and flavanoids.

Both of the Inoue, et al references teach the use of ascorbic acid, and flavanoids, including flavanoid glycosides, for the prevention/inhibition of browning in pharmaceuticals, cosmetics, and foods, see abstract. In addition the Shrikhande et al reference teaches that flavanols have strong antioxidant properties, and are used in foods as preservatives and antioxidants. However, the references do not specifically disclose the use of these compounds to prevent oxidation in cosmetic or dermatologic compositions. However, it is well known to one of ordinary skill in the art that the browning of an organic compound or compositions is equated to its oxidation,

Art Unit: 1626

weather in the presence, or absence of oxygen, e.g. an oxidation reaction may be accomplished by exposure to UV light. Thus, given the references one would have been motivated to use the flavanoid class of compounds in cosmetic and/or dermatologic compositions to prevent the oxidation of the composition and/or ascorbic acid and ascorbyl compounds, since it is well known in the art that both of these classes of compounds are effective antioxidants. Therefor, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the flavanoid class of compounds in cosmetic and/or dermatologic compositions to prevent the oxidation of the composition and/or ascorbic acid and ascorbyl compounds.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Joseph Murray whose telephone number is (703) 308-4540. The examiner can normally be reached on Monday-Friday from 6:30 AM - 3:00 PM.

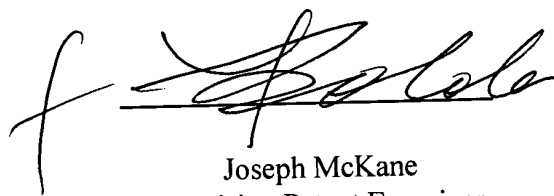
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph McKane, can be reached at (703) 308-4537. The Unofficial fax phone number for this Group is (703) 308-7921. The Official fax phone numbers for this Group are (703) 308-4556 or 305-3592.

When filing a FAX in Technology Center 1600, please indicate in the Header (upper right) "Official" for papers that are to be entered into the file, and "Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Art Unit: 1626

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist, whose telephone number is (703) 308-2286.



Joseph McKane
Supervising Patent Examiner
Group 1600

T. A. Solda, Ph.D.
Primary Examiner

Joseph Murray
September 21, 2001